

ORDINANCE NO. 93-13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DANA POINT, CALIFORNIA, ADDING SECTION 9.07.150 TO THE DANA POINT MUNICIPAL CODE ENTITLED "FACILITIES FOR COLLECTING AND LOADING RECYCLABLE MATERIALS IN DEVELOPMENT PROJECTS."

WHEREAS, Public Resources Code Sections 42911(a) requires that by September 1, 1993, each local agency shall adopt an ordinance relating to adequate areas for collecting and loading recyclable materials in development projects; and

WHEREAS, Public Resources Code Section 42911(b) states that if by September 1, 1993, a local agency has not adopted an ordinance for collecting and loading recyclable materials in development projects, the model ordinance adopted by the California Integrated Waste Management Board shall take effect on that date; and

WHEREAS, the Planning Commission did, on the 1st and 15th day of June, 1993, hold a duly noticed public hearing as prescribed by law to consider this Ordinance; and

WHEREAS, the Planning Commission, after consideration, adopted Resolution No. 93-06-15-31 recommending City Council adoption of this Ordinance; and

WHEREAS, the proposed ordinance implements the Dana Point General Plan's Public Facilities/Growth Management Element Policy #3.5 by supporting recycling by requiring areas for recycling containers; and

WHEREAS, the City recognizes that there may be hardships based upon the unique features inherent to each existing developed property that may interfere with the goal of siting the recyclable storage facility, and as such has provided for "Recycling Guidelines" to assist property owners in siting Recyclable facilities, and has included applicable sections within this Ordinance to address such hardships; and

WHEREAS, a Negative Declaration (SCH #93041035) was prepared for this project as set forth in the California Environmental Quality Act. The Negative Declaration was considered, and adopted by Planning Commission Resolution No. 93-06-15-30 and City Council Resolution No. 93-07-13-02; and

NOW, THEREFORE, the City Council of the City of Dana Point, California does hereby ordain as follows:

SECTION 1. Chapter 9.07.150, entitled "Facilities For Collecting And Loading Recyclable Material In Development Projects" is hereby added to the Dana Point Municipal Code to read as follows:

9.07.150 Facilities for Collecting And Loading Recyclable Material

In Development Projects

(a) Purpose.

(1) The California Solid Waste Reuse and Recycling Access Act (Act) was adopted to meet the urgent need for state and local agencies to address access to solid waste for source reduction.

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recycling, and composting activities. In accordance with the California Integrated Waste Management Act of 1989 (AB939), the City of Dana Point must divert fifty percent (50%) of all solid waste by January 1, 2000, through source reduction, recycling, and composting activities. As such, diverting 50% of all solid waste will require the participation of residential, commercial, industrial, and public sectors.

(2) The lack of adequate areas for collecting and loading recyclable materials that are compatible with surrounding land uses is a significant impediment to diverting solid waste and constitutes an urgent need for the City to address access to solid waste for source reduction, recycling, and composting activities. This Section has been developed to meet that need and comply with Public Resources Code Section 42911. This Section will fulfill the requirements of State Law, while being tailored to address issues specific to the City of Dana Point.

(b) Definitions. The following definitions shall apply to the language contained in this Section:

- (1) "Development Project" means any of the following:
 - (A) A project for which a building permit is required for a commercial, office, industrial, institutional, or residential building, where solid waste is collected and loaded. At a minimum, this includes all new development projects, and any single alternation of an existing Development Project requiring a building permit.
 - (B) Any new public facility where solid waste is collected and loaded and any improvements for areas of a public facility used for collecting and loading solid waste.
- (2) "Recycling Area" or "Area for Recycling" means space allocated for collecting and loading of recyclable materials.

(c) General Requirements.

- (1) Any new Development Project for which an application for a building permit is submitted on or after the effective date of this Section shall include adequate, accessible, and convenient areas for collecting and loading recyclable materials. A Plan shall be submitted to the Community Development Director that shows the location, materials, and size of such facilities. Such Plan shall be approved prior to issuance of Grading or Building permits.
- (2) Any improvements for areas of a public facility used for collecting and loading solid waste shall include adequate, accessible, and convenient areas for collecting and loading recyclable materials.
- (3) Any existing project for which an application for a building permit is submitted on or after the effective date of this Section for modifications that meet one or both of the conditions below shall include adequate, accessible and convenient areas for collecting and loading recyclable materials according to the Size and Design Standards as defined in sub-paragraph (d):

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- A. A single alteration which is subsequently performed that adds 30 percent or more to the existing floor area of the development project, or**
- B. Multiple alterations which are conducted within a twelve (12) month period which collectively add 30 percent or more to the existing floor area of the development project.**

(d) Size And Design Standards. In addition to the required Standards as noted, below, "Recycling Guidelines" shall be developed and adopted by the City Council which address additional Size and Design Standards. The "Recycling Guidelines" shall assist developers and property owners in siting facilities for collecting and loading recyclable materials, and provide contact telephone numbers of City Staff to assist in siting these facilities. The "Recycling Guidelines" may be amended from time to time by resolution of the City Council to address future technological advancements. As such, when using the "Recycling Guidelines", the Dana Point Community Development Department should be contacted to determine which is the latest edition.

- (1) Size Standards.**
 - (A) Areas for recycling shall be adequate in capacity, number, and distribution to serve the uses and development where the project occurs.**
- (2) Design Standards:**
 - (A) Bin type Trash. Recyclable and Green Waste storage areas shall be screened with an enclosure consistent with the minimum size standards as noted in the "Recycling Guidelines".**
 - (B) The design and construction of recycling areas shall not prevent security of any recyclable materials placed therein.**
 - (C) Recycling containers or facilities shall provide protection against weather or other conditions which might render the collected materials unmarketable.**
 - (D) Bin type Trash, Recycling and Green Waste storage facilities shall have the ability to be accessed at all times by collection vehicles and personnel. Minimum clearance required by the collection methods and vehicles utilized by the hauler shall be utilized.**
 - (E) Bin type Trash. Recycling and Green Waste storage facilities shall have a maximum one (1) square foot sign, clearly identifying all recycling and solid waste collection and loading areas and the materials accepted therein. The sign shall be posted adjacent to all points of access to the recycling areas.**
 - (F) Developments and transportation corridors adjacent to recycling areas shall be adequately protected from any adverse impacts.**

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- (G) The property owner shall be responsible for the upkeep and care of the Trash, Recyclable and Green Waste storage areas, gates, and enclosures so that it shall remain in a clean and working condition.
- (H) Each Trash, Recycling and Green Waste container shall be covered. Container lids may act as suitable cover, provided that they remain fully closed.

(e) Location

(1) The exterior Trash, Recycling and Green Waste storage area may be located on the outside or the exterior of a structure/building, or in a designated interior area with access such as a garage, or in rear yards and interior side yards. Except as noted in "(4) Exceptions to Location Standards" below, the exterior storage area shall not be located in any required front yard setback, unfenced street side yard, required parking, open space or landscaped areas. The Trash, Recycling and Green Waste storage containers shall not be visible from any public right-of-way.

(2) Trash, Recycling and Green Waste areas shall not be located in any area required by the Municipal Code to be constructed and/or maintained as unencumbered, according to fire and other applicable building and/or public safety laws.

(3) Within multi-family residential developments there shall be a Trash, Recycling and Green Waste storage area located no greater than 250 feet from each living unit.

(4) Exceptions to Location Standards. The primary goal of this Section is to require and/or encourage a well designed and attractive Trash, Recycling and Green Waste collection facility at each property while minimizing undue hardships for the property owner(s). Hardships are recognized based upon the unique features inherent to each existing developed property that may interfere with the goal of siting the recyclable storage area. Trash, Recycling and Green Waste storage areas proposed in areas other than those permitted by items 1-3 above may be approved if properly designed. Property owners may submit an application for approval of a Minor Conditional Use Permit in order to vary from Locational Standards. Applications for such proposals are required to include a letter and Site Plan explaining the locational hardship, and payment of applicable fees.

The Community Development Director may approve the Minor Conditional Use Permit according to Zoning Code Section 7-9-150 of the Codified Ordinances of the County of Orange as the same were incorporated by reference into the Dana Point Municipal Code by Ordinance No. 90-07. In approving Minor Conditional Use Permits for altering the Location, the Community Development Director must make the following findings:

- (A) That the nature, condition, and development of adjacent uses, buildings, and structures have been considered, and the proposal will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures.
- (B) That this request is made on the basis of a hardship condition and not as a matter of convenience.

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- (C) That Trash, Recycling and Green Waste containers shall be aesthetically pleasing and adequately screened so as not to be seen from the public right-of-way.

(f) Amortization Of Non-Conforming Development.

(1) Unless an extension is granted by the City in accordance with Subsection (f)(2), within ninety (90) days for residential land uses and one (1) year for non-residential land uses, following the date of adoption of this Section, whether or not existing developed properties obtain a Building or Grading Permit for improvements as noted in sub-section (c), all existing developed properties shall provide for Trash, Recycling and Green Waste storage areas in accordance with the requirements of this Section.

(2) Time Extension. Prior to the expiration of the ninety (90) or one (1) year period, a written request may be made to the Community Development Department for an extension in accordance with the following:

- (A) Time Period - The Planning Commission may approve a time extension for a period deemed appropriate, up to one (1) year.
- (B) Application and Fee - An application shall be submitted on a form provided by the Director of Community Development and accompanied by a fee set by a Resolution of the City Council. The application shall include a letter from the property owner indicating why the amortization period would create a hardship.
- (C) Findings - The Planning Commission shall find the following in approval of an extension of time for the amortization period:
 - 1. Due to special circumstances, immediate installation will result in hardship for the applicant.

(g) Inconsistent Provisions. This Section shall supersede any inconsistent provisions of the Dana Point Municipal Code and any other ordinance or regulation to the extent that such regulation is less restrictive than the provisions hereof. This Section shall not affect the requirements of any ordinance or regulation to the extent that such regulation is more restrictive than the provisions of this Section.

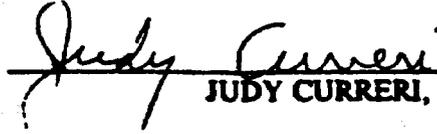
SECTION 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance, and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases or portions thereof be declared invalid or unconstitutional.

SECTION 3. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen (15)

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days after passage and adoption as required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five (5) days prior to the date of adoption of this Ordinance; and, within fifteen (15) days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

PASSED, APPROVED AND ADOPTED this 27th day of July, 1993.



JUDY CURRERI, MAYOR

ATTEST:



CATHY CATLETT,
ACTING CITY CLERK

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STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

I, CATHY CATLETT, Acting City Clerk of the City of Dana Point, California, do hereby certify that the foregoing Ordinance No. 93-13 was duly introduced and placed upon its first reading at a regular meeting of the City Council on the 13th day of July, 1993, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the 27th day of July, 1993, by the following vote, to wit:

- AYES: Council Members Krause, Lloreda, Mayor Pro Tem
 Ossenmacher and Mayor Curreri
- NOES: Councilman Eggers
- ABSTAIN: None
- ABSENT: None

(SEAL)



CATHY CATLETT, ACTING CITY CLERK

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STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF DANA POINT)

AFFIDAVIT OF POSTING
AND PUBLISHING

CATHY CATLETT, being first duly sworn, deposes, and says:

That she is the duly appointed and qualified Acting City Clerk of the City of Dana Point;

That in compliance with State Laws of the State of California, ORDINANCE NO. 93-
13, being:

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DANA POINT, CALIFORNIA, ADDING SECTION 9.07.150 TO THE
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was published in summary in the Dana Point News newspaper on the 22nd day of July, 1993, and
the 5th day of August, 1993, and, in further compliance with City Resolution No. 91-10-08-1,
on the 22nd day of July, 1993, and the 5th day of August, 1993, was
caused to be posted in three (3) public places in the City of Dana Point, to wit:

Dana Point City Hall
Capistrano Beach Post Office
Dana Point Post Office.



CATHY CATLETT
ACTING CITY CLERK
Dana Point, California